



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

FEB 05 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Article No.: 7004 2510 0006 9721 7591

Honorable Lawrence E. Cline
Mayor of Rockaway Beach
P. O. Box 315
Rockaway Beach, MO 65740

Dear Mayor Cline:

Re: Rockaway Beach Wastewater Treatment Facility
NPDES Permit No.: MO-0108162

Request for Information- Prompt Attention Required

This is a follow-up to the inspection of the Rockaway Beach Wastewater Treatment Facility conducted by the United States Environmental Protection Agency (EPA) under the authority of Section 308 of the Clean Water Act (CWA) on September 10-13, 2007. A copy of the inspection report was previously sent to you.

After reviewing the inspection report, EPA has determined that additional information is needed in order to determine your compliance with the requirements of the CWA and regulations promulgated thereunder. Section 308 of the CWA authorizes the EPA to collect information for the purpose of carrying out the objectives of the CWA, including but not limited to, determining the compliance of a person with a National Pollution Discharge Elimination System Permit.

Please provide all information that is responsive to the items set forth in the enclosed Request for Information, irrespective of whether such information was generated by Rockaway Beach, its agents, contractors, or representatives. Please maintain originals of all documents in Rockaway Beach's possession, custody and/or control that are responsive to this request.

Enclosure 1 contains instructions for responding to this information request. Please carefully read and follow these instructions. Your response to this request in accordance with the instructions is required and substantial penalties may result from not complying. Enclosure 2 contains the specific information requested. Enclosure 3 is a certification statement that must be completed by an authorized representative of Rockaway Beach and returned with your response.

The city of Rockaway Beach is required to respond to this Section 308 Information Request **within 20 calendar days of receipt of this letter**, addressed as follows:

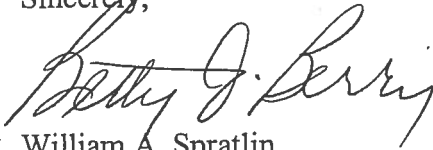
Cynthia Sans (WWPD/WENF)
U.S. Environmental Protection Agency, Region VII
901 N. 5th Street
Kansas City, KS 66101

The information required herein must be submitted notwithstanding any claim you may have concerning confidentiality. If you wish to assert a claim of confidentiality concerning information submitted in response to this letter, you may do so pursuant to the provisions of 33 U.S.C. § 1318 and 18 U.S.C. § 1905. EPA will consider and process such a request pursuant to said statutes and EPA regulations at 40 C.F.R. Part 2, Subpart B.

Please be advised that failure to respond accurately and within the above time period, or submission of false information, may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001.

If you have any questions regarding this information request, please contact Cynthia Sans at 913-551-7492, or have your attorney contact Audrey Asher, the attorney assigned to this matter at 913-551-7255.

Sincerely,


for William A. Spratlin
Director
Water, Wetlands and Pesticides Division

Enclosures

cc: Kevin Mohammadi, Chief, Water Pollution Control, Missouri Department of Natural Resources
Cindy Davies, Director, Southwest Regional Office, Missouri Department of Natural Resources

Enclosure 1

INSTRUCTIONS

1. Preliminary Information: Identify the person to contact regarding your response, including title, address and phone number. Also provide the name and credentials of the person(s) providing information in response to this request for information.
2. Complete Response: If you have no information to provide in response to any question, you must affirmatively state that the requested information is not included in your response, and indicate the reason.
3. Requests for Extension of Time to Respond: If you believe for any reason that you will not be able to provide a complete response to this Information Request within thirty days, you may submit a written request for an extension within five (5) calendar days of receipt of this letter. When requesting an extension, you must specify which questions you will need additional time to answer. All other responses should be submitted on or before the end of the fifteen-day period. For more information, contact Audrey Asher at 913-551-7255.

Enclosure 2

INFORMATION REQUEST

Pursuant to the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), you are required to provide the following information:

1. Provide a copy of the Daily Monitoring Reports (DMRs) submitted to the Missouri Department of Natural Resources (MDNR) from January 2005 through the present.
2. Provide a copy of all bench sheets and/or laboratory analyses results that accompany the requested DMRs. Wherever these documents are missing for the period between January 2005 through the present, state whether or not samples were collected and analyzed on the dates of the missing documents. Wherever the bench sheets and/or laboratory analyses were falsified, identify such on the documents.
3. Provide a copy of all bench sheets and/or laboratory analyses results that support sludge sampling performed for the period 2004 through the present.
4. Provide a copy of all sludge application logs for sludge that was applied to land between 2004 and the present.

Enclosure 3

CERTIFICATION STATEMENT

I certify under penalty of law that I am responding to this Information request truthfully. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NAME (print or type)

TITLE (print or type)

SIGNATURE

DATE

FEB 05 2008

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RETURN RECEIPT REQUESTED

Article No.: 7004 2510 0006 9721 7591

Honorable Lawrence E. Cline
Mayor of Rockaway Beach
P. O. Box 315
Rockaway Beach, MO 65740

Dear Mayor Cline:

Re: Rockaway Beach Wastewater Treatment Facility
NPDES Permit No.: MO-0108162

Request for Information- Prompt Attention Required

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CONCURRENCE:WWPD/WENF:Sans:H:\WENF\2007 Correspondence\Sans\Rockaway Beach 308 letter.doc 01/30/08 lk REDONE 2/4/08 lk					
NAME	Sans	Asher	Huffman	Spratlin	
DIV/BRANCH	WWPD/WENF	CNSL	WWPD/WENF	WWPD	
SIGN	OS	AA	TP for DH	JS	
DATE	1/30/08	1/30/08	2-4-08	02/04/08	

7004 2510 0006 9721 7591

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OFFICIAL USE

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Honorable Lawrence E. Cline
Mayor of Rockaway Beach
P. O. Box 315
Rockaway Beach, MO 65740

*

Total

Sent To

Street, Apt. No., or PO Box No.
City, State, ZIP+4

FEB 05 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Lawrence E. Cline, Mayor
City of Rockaway Beach
P. O. Box 315
Rockaway Beach, Missouri 65740

Dear Mayor Cline:

Re: Rockaway Beach Wastewater Treatment Facility
NPDES Permit No.: MO-0108162

Enclosed is an administrative order captioned FINDINGS OF VIOLATION/ ORDER FOR COMPLIANCE (Order). This Order is issued by the United States Environmental Protection Agency (EPA) to the City of Rockaway Beach, Missouri (City), pursuant to Section 309 (a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a). The Order is based on information EPA obtained during the inspection of the Rockaway Beach Wastewater Treatment Facility conducted pursuant to the authority of Section 308 of the CWA on September 10-13, 2007.

This Order describes numerous violations of NPDES permit No. MO-0108162, granted to the City by the Missouri Department of Natural Resources. The most egregious violation is the failure to sample effluent and the falsification of sampling data on Discharge Monitoring Reports. Other significant violations are also identified in this Order. Section V of the Order requires the City to come into compliance with its NPDES permit by taking specific actions within the designated timelines identified in that section. Please read this section closely as failure to comply with an administrative order may subject the City to penalties under Section 309(g) of the CWA.

EPA is also transmitting a separate letter to the City requesting additional information so that the Agency is able to fully assess the City's compliance with its NPDES permit. At a later date, EPA may be issuing another order which seeks penalties from the City pursuant to Section 309(g) of the CWA, for all the violations of its NPDES permit, which are violations of the CWA.

CONCURRENCES

WWPD
C. Sans

C Sans
1/20/08

CNSL
A. Asher

AA
1/30/08

WWPD/WENF
D. Huffman

TH
2-4-08

WWPD
A. Spratlin

AS
03/04/08

CNSL

C220
DL
2-11/08

If you have any questions regarding this information request, please contact Cynthia Sans at 913-551-7492, or have your attorney contact Audrey Asher, the attorney assigned to this matter at 913-551-7255.

Sincerely,

William A. Spratlin
Director
Water, Wetlands and Pesticides Division

enclosure

cc: Kevin Mohammadi, Chief, Water Pollution Control, MDNR
Cindy Davies, Director, Southwest Regional Office, MDNR

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

IN THE MATTER OF)

THE CITY OF ROCKAWAY BEACH)
MISSOURI)

Respondent)

Proceedings under Section 309(a)(3))
of the Clean Water Act,)
33 U.S.C. § 1319(a)(3))

FINDINGS OF VIOLATION/
ORDER FOR COMPLIANCE

Docket No. CWA-07-2008-0031

I. PRELIMINARY STATEMENT

1. The following FINDINGS OF VIOLATION and ORDER FOR COMPLIANCE (“Order”) are made and issued pursuant to the authority of Section 309(a)(3) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(a)(3). This authority has been delegated by the Administrator of the United States Environmental Protection Agency (“EPA”) to the Regional Administrator, EPA Region VII and further delegated to the Director of the Water, Wetlands, and Pesticides Division, EPA Region VII.

2. Respondent is the City of Rockaway Beach, Missouri which owns and operates a publicly owned treatment works (“POTW”). The POTW includes a wastewater treatment facility, which serves the cities of Rockaway Beach, Merriam Woods and Bull Creek, Missouri.

II. STATUTORY AND REGULATORY FRAMEWORK

3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to that Section.

4. The CWA prohibits the discharge of “pollutants” from a “point source” into a “navigable water” of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

IV. FINDINGS OF VIOLATION

15. The facts stated in paragraphs 7 through 14 above are herein incorporated.

Count 1 – Failure to Sample

16. Part A, Effluent Limitations and Monitoring Requirements of the Permit, sets limits for Ammonia, Biochemical Oxygen Demand (“BOD”), Total Suspended Solids (“TSS”), pH, Fecal Coliform, Total Phosphorus as P and Oil and Grease. Part A of the Permit also requires monthly sampling and analysis to verify compliance with the effluent limitations.

17. Respondent failed to collect samples and falsified the Discharge Monitoring Reports (“DMRs”) to indicate that samples had been collected and analyzed as required by the Permit. This failure to sample is a violation of the Permit and therefore a violation of Section 402 of the CWA.

Count 2 - Improper Sampling Procedures

18. . The Standard Conditions of the Permit, Part 1, Section A.1.a., requires that the samples and measurements required by the Permit are to be representative of the nature and volume of the monitored discharge and are to be taken at the outfall, and unless specified, before the effluent joins or is diluted by any other body of water or substance. In addition, Part A of the Permit requires that 24 hour composite samples be collected for BOD, TSS and Whole Effluent Toxicity (“WET”) tests. During the inspection, Respondent stated that it collects grab samples, rather than composite samples. Grab samples are not representative. Such sampling is an improper procedure and is a violation of the Permit.

19. Federal regulations at 40 C.F.R. Part 136.3, set forth the test requirements that must be used to determine total ammonia as N and total phosphorus as P. Both test procedures require digestion as an initial step. Respondent failed to perform this step in the sampling process. Failure to perform this step is improper sampling procedure and a violation of the Permit.

20. Missouri regulations at 10 C.S.R. Part 20, Chapter 9, which are adopted by reference into the Permit, require process test controls to be implemented at a designated frequency. At the time of the inspection, these tests were not being performed for the POTW at the required frequency. Failure to perform these tests in compliance with 10 C.S.R. Part 20, Chapter 9, is a violation of the Permit and therefore a violation of Section 402 of the CWA.

(e) Respondent failed to protect all the mechanical equipment with drive belt covers.

(f) Respondent failed to maintain the sand filter backwash pumps, causing a bypass as there was a direct discharge of backwash into the channel without passing through the UV light bank.

Count 5 – Failure to Report

23. Special Conditions to the Permit, Section C.8., require Respondent to submit a report semi-annually in April and October with the Discharge Monitoring Reports (“DMRs”) which address measures taken to locate and eliminate sources of inflow and infiltration into Respondent’s collection system. Respondent failed to submit these reports with the April and October DMRs. This failure is a violation of the Permit.

24. Standard Conditions to the Permit, Part III, Section K.2., require an annual report to be submitted to MDNR by January 28th of each year, reporting sludge handling and application activities of the previous calendar year. Respondent failed to submit the annual sludge report for 2006. This failure is a violation of the Permit.

25. Standard Conditions to the Permit, Part I., Section A.5., require that whenever a bypass occurs, the POTW must report such incident to MDNR within twenty-four hours and submit a written follow-up within five days. During the inspection, EPA observed bypass: backwash (unable to flow through plugged sand filters) flowing directly into the discharge channel without passing through the UV light. Respondent failed to make the oral report and to submit the written report after a bypass occurred. This failure is a violation of the Permit.

Count 6 – Wrongful Sludge Application

26. Standard Conditions to the Permit, Part III, incorporate the federal sludge disposal requirements set forth in 40 C.F.R. Part 503 which establishes pollutant limits, management practices, and operational standards for disposal of sewage sludge to the land. During the inspection, Respondent provided EPA the pathogen analysis it performed in 2003 and 2004 to sludge that Respondent applied to agricultural land. The analyses indicated that the Class B sludge generated by the POTW had a pathogen density of 2,780,000 Most Probable Number/Colony Forming Units (MPN/CFU) in 2003 and 4,060,000 MPN/CFU in 2004. The regulations at 40 C.F.R. § 503.32 (b)(2)(ii) set the pathogen limit applicable to the sludge from the POTW at either 2,000,000 MPN per gram of total solids or 2,000,000 CFUs per gram of total solids. The regulations at 40 C.F.R. § 503.15(a) state that the Class A pathogen requirements in Section 503.32(a) or the Class B pathogen requirements and site restrictions in Section 503.32(b) shall be met when bulk sewage sludge is applied to agricultural land, forest, a public contact site, or a reclamation site. The pathogen analyses of the sludge performed in

In the Matter of Rockaway Beach, Missouri Docket No. CWA-07-2008-0031

33. Within thirty (30) days of the Effective Date, Respondent shall submit to EPA a copy of the 2007 sludge report submitted to MDNR. In addition, Respondent shall provide an accounting of all sludge wasted from the clarifiers in 2007. Thereafter, Respondent shall continue to submit this information annually to EPA through 2012.

34. On the 10th day of the month immediately following the Effective Date and on the 10th day of every 3rd month thereafter through 2012, Respondent shall submit to EPA with a copy to MDNR sampling and analysis information of the influent and effluent, bench sheets, removal efficiency calculations, and letterhead data reports from the certified laboratory performing analyses. Respondent shall submit DMRs to MDNR with a copy to EPA on the same schedule.

35. In April and October of 2008 and continuing in April and October of the next five years, Respondent shall provide EPA a copy of the semi-annual report it submits to MDNR.

36. In the event that Respondent believes complete correction of the violations cited in this Order is not possible within thirty (30) days of the Effective Date, Respondent shall, within those thirty (30) days, submit a comprehensive written plan for the elimination of the cited violations. Such plan shall describe in detail the specific corrective actions to be taken. The plan shall include a detailed schedule for the elimination of the violations within the shortest possible time, as well as measures to prevent these or similar violations from recurring.

37. All documents required to be submitted to EPA by this Order shall be transmitted by mail to:

Ms. Cynthia Sans
Water, Wetlands, and Pesticides Division
U.S. Environmental Protection Agency - Region 7
901 North Fifth Street
Kansas City, KS 66101

38. A copy of documents required to be submitted to MDNR by this Order shall be transmitted by mail to:

Mr. Kevin Mohammadi, Chief
Enforcement Section
Water Pollution Control Program
Missouri Dept. of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102

In the Matter of Rockaway Beach, Missouri Docket No. CWA-07-2008-0031

Issued this _____ day of _____, 2008.

William A. Spratlin, Director
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency
Region VII
901 North Fifth Street
Kansas City, Kansas 66101

Audrey Asher
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII
901 North Fifth Street
Kansas City, Kansas 66101